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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,890	01/11/2005	Teruaki Yogo	ADACHI P267US	6445
20210 7590 08/09/2007 DAVIS & BUJOLD, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301			EXAMINER LOPEZ, FRANK D	
			ART UNIT 3745	PAPER NUMBER
			MAIL DATE 08/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No. 10/520,890	Applicant(s) YOGO, TERUAKI	
	Examiner F. Daniel Lopez	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 15 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on May 15, 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>May 15, 2007</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Applicant's arguments filed May 15, 2007, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claims 7 and 9-12 have been considered but are deemed to be moot in view of the new grounds of rejection.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 7 and 9-12 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7 line 7-9 and claim 12 line 7-8 "a leak flow path that communicates between a high pressure side and a low pressure side of at least one of the pair of flow paths" is wrong. The leak flow path (30) only communicates with one or the other flow paths (10, 8), but not both flow paths. Suggest that "at least" be deleted.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 12 is rejected under 35 U.S.C. § 103 as being unpatentable over German 3,734,329 in view of Clay et al. German 3,734,329 discloses a fluid pressure apparatus comprising a variable displacement reversible pump (25) having two ports (28, 32) connected, by two flow paths (31, 33), to two respective ports of an actuator (12), with a throttle (86) and an electromagnetic valve (75) in a leak flow path connected between high and low pressure sides of one of the two flow paths; with the displacement of the pump controlled by a controller having a position control device using a movement detection sensor (56) and by a pressure control device using a pressure detection sensor (e.g. 52); but does not disclose that the pump is driven by an electric motor, wherein the electric motor is controlled by the controller.

Clay et al teaches, for a fluid pressure apparatus comprising a variable displacement reversible pump (38) having two ports (28, 32) connected, by two flow paths (40, 42), to two respective ports of an actuator (12), with the displacement of the pump controlled by a controller (via 112); that the pump is driven by an electric motor (58), wherein the electric motor is controlled by the controller (via line 116).

Since German 3,734,329 does not disclose what drives the pump and Clay et al teaches a particular drive for a pump; it would have been obvious at the time the invention was made to one having ordinary skill in the art to drive the pump of German 3,734,329 by an electric motor, wherein the electric motor is controlled by the controller, as taught by Clay et al, as a matter of engineering expediency.

Claims 7 and 9-11 are rejected under 35 U.S.C. § 103 as being unpatentable over German 3,734,329 in view of Clay et al, as applied to claim 12 above, and further in view of Schmitz. The modified German 3,734,329 discloses all of the elements of claims 7 and 9-11, as discussed in the above rejection, including that the apparatus is controlled to have a first motion toward the actuation position and a second pressing motion at the actuation position; but does not disclose that a switching device switches control of the displacement of the pump between the position and pressure control devices, based on the movement detection sensor.

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Schmitz teaches, for a fluid pressure apparatus comprising an actuator (10) controlled by a controller having a position control device using a movement detection sensor (18) and by a pressure control device using a pressure detection sensor (23); wherein the apparatus is controlled to have a first motion toward the actuation position and a second pressing motion at the actuation position; that the controller includes a switching device (21), which switches control of the between the position and pressure control devices, based on the movement detection sensor (column 2 line 26-27), for the purpose of moving a tool into an appropriate position and then applying an appropriate pressure.

Since the motion of German 3,734,329 and Schmitz is similar and are German 3,734,329 doesn't give details of how the controller works; it would have been obvious at the time the invention was made to one having ordinary skill in the art to the include in controller of the modified German 3,734,329 a switching device, which switches control of the between the position and pressure control devices, based on the movement detection sensor, as taught by Schmitz, for the purpose of moving a tool into an appropriate position and then applying an appropriate pressure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:00 AM –4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The official fax number is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

/F. Daniel Lopez/

F. Daniel Lopez
Primary Examiner
Art Unit 3745
August 01, 2007